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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,009	08/31/2001	Daniel J. Reed	00-1048	9362
40158	7590	04/21/2004	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			WEEKS, GLORIA R	
		ART UNIT	PAPER NUMBER	
		3721	15	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/944,009	REED, DANIEL J.
Examiner	Art Unit	
Gloria R Weeks	3721	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 January 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3,4,7,8,10-16,21-24 and 26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 8,10,15,16 and 24 is/are allowed.
 6) Claim(s) 1,4,7,11,21-23 and 26 is/are rejected.
 7) Claim(s) 3 and 12-14 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Response to Amendment

1. This action is in response to Applicants' amendment received on August 21, 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4, 11, 21-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Doberne (USPN 3,602,419).

In reference to claims 1, 11, 22, 23 and 26, Doberne discloses an adapter for converting a hammer tool into a multiple-impact object driving tool, the hammer tool having a housing with a barrel portion including a rear section and a nose section, the hammer having a reciprocating impact member (12), the adapter comprising: a shroud (19) for removably mounting on the hammer tool (11), having a bore (45) formed through the upper shroud between a forward and rearward end, the rearward end of the shroud removably receiving a portion of the hammer device; a drive punch (27) positioned in the bore (45) of the shroud (19) with a rear section, including retaining means (17), for being impacted by the reciprocating impact member (12) and a forward end (22) for impacting an object (25) to be driven; and a guide bushing (18) extending forwardly from the shroud (19), having a forward and rearward end, a channel (20) extending through the guide bushing (18) between the forward and rearward ends for receiving a portion of the object (25) to be driven, the guide bushing (18) being slidably mounted (figures 2-3) on the front portion of the shroud (19) such that the guide bushing (18) is movable between an extended

position (figure 2) and a retracted position (figure 3); wherein the channel of the guide bushing (18) has a length and the length is uniform in diameter along the entire length, and the uniform diameter being slightly larger than the forward end of the drive punch (27).

In reference to claim 4 and its limitations as stated above, Doberne discloses an adapter for converting a hammer tool into a multiple-impact object driving tool additionally comprising a biasing means (31) for biasing the guide bushing (18) into an extended position (figure 2) with respect to the shroud (19).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doberne (USPN 3,602,419) in view of York (USPN 4,030,654).

In reference to claim 7 and its limitations as stated above, Doberne discloses an adapter for converting a hammer tool into a multiple-impact object driving tool wherein the shroud (19) has an outer surface, the outer surface of the shroud having a substantially cylindrical front and rear part. Doberne does not disclose the shroud (19) including a frusta-conical intermediate part. York teaches a hammer tool having frusta-conical shroud (12) for the purpose of preventing the shroud from abutting with any adjacent walls or objects that would interfere with the positioning of the hammer tool (column 2, lines 10-14). It would have been obvious to one having ordinary

skill in the art at the time the invention was made to modify the shape of Doberne's shroud to the frusta-conical shape of York for the purpose of allowing the hammer tool to be better positioned while driving a fastener.

Allowable Subject Matter

8. Claim 3, 12-14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 8, 10, 15, 16 and 24 are allowed.

Response to Arguments

10. The indicated allowability of claims 11, 20-23, 25 and 26 of Paper No. 11 is withdrawn based on their dependance on rejected claim 1 and limitations taught by Doberne, as stated in the above rejections.

As previously stated, Applicant's reference to "a length" encompasses the multi-length guide bushing of Doeberne. This limitation is carried through to the dependant claims, thereby restricting the limitations of the dependant claims to the length that is cited in the independent claim. The guide bushing of Doeberne has indefinite number of lengths, of which a length defined by the area containing the spring and a length defined by the area containing the fastener meet the limitations of Applicant's invention as claimed.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

Gloria R Weeks
Examiner
Art Unit 3721

GRW
grw
April 5, 2004


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700